RECEIVED
CENTRAL FAX CENTER
AUG 2 7 2007

☑ 001/040

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

PATENT APPLICATION

ATTORNEY DOCKET NO. ___100204110-1___

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):   Stephen Gold et al.

Application No.: 10/723,950

Filing Date: November 26, 2003

Confirmation No.: 8415

Examiner: Reba I. Elmore

Group Art Unit: 2189

Title: Communications Systems and Methods

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on ___June 27, 2007___.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month $120   ☐ 2nd Month $450   ☐ 3rd Month $1020   ☐ 4th Month $1590

☐ The extension fee has already been filed in this application.

☒ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of ___$ 500___. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

☐ A duplicate copy of this transmittal letter is enclosed.

☐ I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner for Patents, Alexandria, VA 22313-1450
Date of Deposit:

OR

☒ I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number (571)273-8300.
Date of facsimile: August 27, 2007
Typed Name: ___Nelete King___
Signature: ___

Rev 16/05+ (Appeal)

Respectfully submitted,

Stephen Gold et al.

By ___

James D. Shaurelte
Attorney/Agent for Applicant(s)

Reg No. :   39,833
Date :   8|27|07
Telephone :   (509) 624-4276

RECEIVED
CENTRAL FAX CENTER

AUG 2 7 2007

☑ 003/040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No. 10/723,950
Filing Date.. November 26, 2003
Inventor...Stephen Gold et al.
Assignee... Hewlett-Packard Development Company, L.P.
Group Art Unit 2189
Examiner.. Reba Elmore
Attorney's Docket No. ....PDNO. 100204110-1
Title: Communications Systems and Methods

BRIEF OF APPELLANT

To: Mail Stop Appeal Brief-Patents
             Commissioner of Patents
             P.O. Box 1450
             Alexandria VA 22313-1450

From: James D. Shaurette (Tel. 509-624-4276; Fax 509-838-3424)
             Wells, St. John, P.S.
             601 W. First Avenue, Suite 1300
             Spokane, WA 99201-3817

Appellant appeals from the Office Action mailed March 27, 2007 (hereinafter the "Office Action"). The Commissioner is authorized to charge the fee required under 37 C.F.R. § 41.20(b)(2) to Deposit Account No. 08-2025.

08/28/2007 HDEHESS1 00000067 082025   10723950
01 FC:1402   500.00 DA

Case 100204110-1
Brief of Appellant

TABLE OF CONTENTS

-ii-

I.   REAL PARTY IN INTEREST

The real party in interest of this application is Hewlett-Packard Development Company, L.P. as evidenced by the full assignment of the pending application to Hewlett-Packard Development Company, L.P. recorded starting at Reel 014241, Frame 0756, in the Assignment Branch of the Patent and Trademark Office. The Hewlett-Packard Development Company, L.P., is a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II.   RELATED APPEALS AND INTERFERENCES

Appellant, Appellant's undersigned legal representative, and the assignee of the pending application are aware of no appeals or interferences which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

III.   STATUS OF THE CLAIMS

Claims 1-46 are pending and stand rejected. Appellant appeals the rejection of claims 1-46.

IV.   STATUS OF AMENDMENTS

No amendments have been filed since the mailing of the Office Action.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

Concise explanations of the subject matter defined in each of the independent claims and argued dependent claims involved in the appeal follow with respect to exemplary illustrative embodiments of the specification and figures.

Referring to independent claim 1, a data management system 16 is shown in one embodiment in Fig. 2 and described at page 5, line 15 of the specification. Client protected computer systems 14 are described at page 4, line 28 according to

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

2

one embodiment. A plurality of storage devices 34 are described at page 6, line 8 of the specification in one embodiment. Storage control circuitry 20 is described at page 5, line 18 of the specification according to one embodiment.

Referring to dependent claim 2, a request to add a new protected computer system is described at page 10, line 27 of the specification according to one embodiment.

Referring to dependent claim 3, assigning of one storage device responsive to monitoring of status is described at page 10, line 32 according to one embodiment.

Referring to dependent claim 6, assigning the one storage device which has a greatest available capacity is described at page 11, line 12 according to one embodiment.

Referring to dependent claim 7, storage of entireties of data is described at page 8, line 5 according to one embodiment.

Referring to independent claim 16, a data management system 16 is shown in one embodiment in Fig. 2 and described at page 5, line 15 of the specification. Plural means for storing electronic data are described at page 6, line 8 of the specification in one embodiment. Client protected computer systems 14 are described at page 4, line 28 according to one embodiment. Means for communicating data is described at page 4, line 21 according to one embodiment. Means for assigning is described at page 5, line 18 of the specification according to one embodiment.

Referring to dependent claim 17, storage of entireties of data is described at page 8, line 5 according to one embodiment.

Referring to independent claim 21, a processor-usable medium is described in one embodiment at page 16, line 28. Accessing information regarding storage devices is described at page 10, line 31 according to one embodiment. Association of protected computer systems and storage devices is described at page 8, line 3 according to one embodiment. A request to add a new protected computer system is described at page 10, line 27 of the specification according to one embodiment. Assigning a storage device is described at page 11, line 8 according to one embodiment.

3

Referring to dependent claim 22, association responsive to user input is described at page 14, line 19 according to one embodiment.

Referring to dependent claim 23, association responsive to monitoring is described at page 11, line 8 according to one embodiment.

Referring to independent claim 24, a plurality of storage devices 34 are described at page 6, line 8 of the specification in one embodiment. Client protected computer systems 14 are described at page 4, line 28 according to one embodiment. Monitoring capacities is described at page 10, line 31 according to one embodiment. Storage operations are described at page 13, line 10 according to one embodiment.

Referring to dependent claim 25, a quantity of data of the protected computer systems exceeding individual capacities of storage devices is described at page 9, line 13 according to one embodiment.

Referring to dependent claim 27, monitoring storage capacities is described at page 11, line 3 according to one embodiment.

Referring to dependent claim 28, monitoring processing capacities is described at page 11, line 5 according to one embodiment.

Referring to dependent claim 31, associating the protected computer system with the one storage device which has a greatest available capacity is described at page 11, line 12 according to one embodiment.

Referring to dependent claim 32, transfer of data is described at page 15, line 20 according to one embodiment.

Referring to independent claim 33, a plurality of storage devices 34 are described at page 6, line 8 of the specification in one embodiment. Client protected computer systems 14 are described at page 4, line 28 according to one embodiment. Storage operations are described at page 13, line 10 according to one embodiment. Monitoring capacities is described at page 10, line 31 according to one embodiment. Providing a new storage device is described at page 13, line 9 of the specification according to one embodiment.

Referring to dependent claim 37, the protected computer systems 14 external of the data management system 16 are described at page 5, line 1 with respect to Fig. 1 according to one embodiment.

4

Referring to dependent claim **38**, the protected computer systems **14** are described at page 4, line 25 according to one embodiment.

Referring to dependent claim **41**, the protected computer systems **14** and the data management system **16** are described at page 5, line 1 with respect to Fig. 1 according to one embodiment. A plurality of storage devices **34** are described at page 6, line 8 of the specification in one embodiment. Storage control circuitry **20** is described at page 5, line 18 of the specification according to one embodiment.

Referring to dependent claim **42**, the protected computer systems **14** and the data management system **16** are described at page 5, line 1 with respect to Fig. 1 according to one embodiment. A plurality of storage devices **34** are described at page 6, line 8 of the specification in one embodiment. Storage of data using data management system **16** is described at page 5, line 1 according to one embodiment.

Referring to independent claim **43**, client protected computer systems **14** are described at page 4, line 28 according to one embodiment. A data management system **16** is shown in one embodiment in Fig. 2 and described at page 5, line 15 of the specification. A plurality of storage devices **34** are described at page 6, line 8 of the specification in one embodiment. Storage control circuitry **20** is described at page 5, line 18 of the specification according to one embodiment.

Referring to dependent claim **45**, association of protected computer systems and storage devices is described at page 8, line 3 according to one embodiment.

Referring to dependent claim **46**, storage of entireties of data is described at page 8, line 5 according to one embodiment.

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   The 102 rejection of claims 1-15 and 37-40 over Wahl.

B.   The 102 rejection of claims 16-20 over Wahl.

C.   The 102 rejection of claims 21-23 and 41 over Wahl.

D.   The 102 rejection of claims 24-32 and 42 over Wahl.

E.   The 102 rejection of claims 33-36 over Wahl.

5

F.   The 102 rejection of claims 43-46 over Wahl.

G.   The 102 rejection of claims 2-6 over Wahl.

H.   The 102 rejection of claim 3 over Wahl.

I.   The 102 rejection of claim 6 over Wahl.

J.   The 102 rejection of claims 7-8 over Wahl.

K.   The 102 rejection of claim 17 over Wahl.

L.   The 102 rejection of claim 22 over Wahl.

M.   The 102 rejection of claim 23 over Wahl.

N.   The 102 rejection of claim 25 over Wahl.

O.   The 102 rejection of claim 27 over Wahl.

P.   The 102 rejection of claim 28 over Wahl.

Q.   The 102 rejection of claim 31 over Wahl.

R.   The 102 rejection of claim 32 over Wahl.

S.   The 102 rejection of claim 38 over Wahl.

T.   The 102 rejection of claim 39 over Wahl.

U.   The 102 rejection of claim 41 over Wahl.

V.   The 102 rejection of claim 42 over Wahl.

W.   The 102 rejection of claim 45 over Wahl.

X.   The 102 rejection of claim 46 over Wahl.

Y.   The title is proper.

6

VII. ARGUMENT

A.   Positively-recited limitations of claims 1-15 and 37-40 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Independent claim 1 recites *a data storage system configured to store data of a plurality of client protected computer systems*. At page 3 of the Office Action, the Examiner relies upon the teachings of col. 24, lines 5-24 of Wahl. These teachings refer to a primary computer system 12 and a secondary computer system 14. Referring to col. 6, lines 35+ of Wahl, the primary computer system 12 is disclosed as a storage device which "provides primary application and data storage services to a user" and is not a client protected computer system. Furthermore, the secondary computer system 12 is also disclosed as a storage device which "stores a copy of the data from the primary computer system 14" per col. 6, lines 42+ and is not a client protected computer system. The teachings relied upon by the Office in support of the rejection refer to components of the data mirroring system 10 and fail to teach or suggest that the data storage system is configured to store data of a plurality of client protected computer systems as claimed.

Appellants respectfully submit that the above positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection of the claims is improper for at least this reason.

Independent claim 1 further recites the *data storage system comprises a plurality of storage devices* and a *quantity of data of the protected computer systems to be stored exceeds capacities of individual ones of the storage devices*. The Office relies upon teachings in col. 24, lines 5-24 and col. 1, lines 24-37 of Wahl. However, the teachings in col. 24 generally describe the primary and secondary storage systems 12, 14 but Appellants have failed to uncover any teachings therein of the claimed limitations that the *quantity of data of the protected computer systems to be stored exceeds capacities of individual ones of the storage devices*. The teachings in col. 1, lines 24-37 generically teach disk mirroring and utilization of a redundant array of independent disks which fails to teach the claimed limitations that the *quantity of data of the protected computer systems to be stored exceeds capacities of individual ones of the storage devices*.

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

7

Appellants also submit that the Wahl teachings of writing of data from a cache of the writelog device of the primary system 12 to a dirty bit map disk drive device of the writelog device to avoid memory overflow of the cache fails to refer to the protected computer systems and fails to teach the limitations that the *quantity of data of the protected computer systems to be stored exceeds capacities of individual ones of the storage devices*. Furthermore, Appellants have electronically searched Wahl and have failed to uncover any reference to "capacity" therein.

Appellants respectfully submit that the above positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection of the claims is improper for at least this reason.

Claim 1 further recites *storage control circuitry configured to assign individual ones of the individual storage devices to store data for respective ones of the protected computer systems*. The Office relies upon teachings in col. 5, lines 32 – col. 6, line 27 and col. 24, lines 5-24 of Wahl. However, the teachings in cols. 5 and 6 are generic teachings which generally describe aspects of the data mirroring system of Wahl and Appellants have failed to uncover any teachings therein of the claimed limitations reciting *storage control circuitry configured to assign individual ones of the individual storage devices to store data for respective ones of the protected computer systems*. Furthermore, the teachings in col. 24 generally describe the primary and secondary storage systems 12, 14 but Appellants have failed to uncover any teachings therein of the claimed limitations reciting *storage control circuitry configured to assign individual ones of the individual storage devices to store data for respective ones of the protected computer systems*. At page 10 of the Office Action, the Office generally refers to the Summary of the Invention section of Wahl. Appellants have failed to uncover any teachings in the Summary of the Invention section of the claimed limitations reciting *storage control circuitry configured to assign individual ones of the individual storage devices to store data for respective ones of the protected computer systems*. Appellants respectfully submit that the failure of the Office to identify specific reference teachings in the Summary of Wahl in support of the rejection illustrates the deficiencies of Wahl with respect to the specific claim limitations.

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

8

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

B.   Positively-recited limitations of claims 16-20 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Independent claim 16 recites a *data management system comprising plural means for storing electronic data*, means for communicating data intermediate the plural means for storing and a plurality of client protected computer systems, *wherein a quantity of data of the client protected computer systems exceeds individual data storage capacities of individual ones of the means for storing*.

Referring to page 5 of the Office Action, the Office relies upon teachings of the Summary of the Invention section including col. 3 of Wahl in support of the rejection and as teaching the above-identified limitations. In particular, the teachings at col. 3, lines 24+ of Wahl refer to a writelog device and for assigning additional memory space to prevent memory overflow conditions. Appellants have failed to uncover any teachings in col. 3, lines 24+ of quantities of data of the client protected computers systems and the individual data storage capacities of individual ones of the means for storing. Appellants have failed to uncover any teachings that the quantity of data of the client protected computer systems exceeds individual data storage capacities of individual ones of the means for storing. Furthermore, the teachings at col. 3, lines 38+ of Wahl disclose volume grouping, or logical groups and Appellants have failed to uncover any teachings in col. 3, lines 38+ of quantities of data of the client protected computers systems and the individual data storage capacities of individual ones of the means for storing. Appellants have failed to uncover any teachings that the quantity of data of the client protected computer systems exceeds individual data storage capacities of individual ones of the means for storing.

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

9

Claim 16 also recites *means for assigning individual ones of the means for storing to store data for respective ones of the client protected computer systems.*

The Office again relies upon the Summary of Invention section at col. 3, lines 24-54 of Wahl in support of the rejection. The teachings at col. 3, lines 24+ of Wahl teach dynamically assigning more memory space to prevent a memory overflow condition. Appellants submit that the *dynamic assignment of more memory space fails to teach or refer to client protected computer systems or the claimed limitations of the means for assigning individual ones of the means for storing to store data for respective ones of the client protected computer systems.*

Furthermore, Appellants have failed to uncover any teachings in the generic teachings of col. 3, lines 38+ of Wahl with respect to the claimed *client protected computer systems.* The generic teachings with respect to volume grouping or logical groups are void of disclosing the positively claimed *means for assigning individual ones of the means for storing to store data for respective ones of the client protected computer systems* as claimed.

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

C.   Positively-recited limitations of claims 21-23 and 41 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Independent claim 21 recites a *processor-usable medium comprising code configured to cause processing circuitry of storage control circuitry to associate individual ones of the protected computer systems with respective ones of a plurality of storage devices.*

The Office relies upon the teachings of col. 23, line 61 – col. 24, line 29 of Wahl in support of the rejection and as allegedly teaching the claimed association. Appellants respectfully submit the teachings in Wahl fail to teach the claimed limitations. In particular, the "server fail-over computer system" of col. 23 has not been demonstrated to teach or suggest any association let alone the claimed

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

limitations regarding *association of individual ones of the protected computers systems with* *respective ones of the storage devices*. The teachings in col. 24 of Wahl refer to generic features and Appellants have failed to uncover any reference to protected computer systems therein or the claimed limitations of *association of individual ones of the protected computer systems* *with respective ones of the storage devices* as claimed.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Claim 21 recites *monitoring capacities of the storage devices*. The Office relies upon the teachings in cols. 5-6 of Wahl in support of the rejection. The teachings in col. 5, lines 57 – col. 6, line 27 of Wahl generically refer to a configuration of the mirroring system and Appellants have failed to uncover any reference to "capacity" therein or the claimed limitations of monitoring capacities of the storage devices. The teachings relied upon in col. 6 of Wahl at lines 28+ generally discuss primary and secondary computer systems 12, 14 but Appellants have failed to uncover any reference to capacity therein let alone the claimed limitations of monitoring capacities of the storage devices. Appellants have electronically searched Wahl and have failed to uncover any teaching to "capacity" let alone the claimed limitations of monitoring capacities of the storage devices as claimed.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Claim 21 additionally recites *receiving a request to add a new protected computer system* and *assigning the new protected computer to one of the storage* *devices* responsive to the *monitoring of the capacities*. The Office refers to the teachings of col. 5, lines 57 to col. 6, line 58 of Wahl. Appellants have failed to uncover any teachings in such portion of Wahl with respect to *assignment of a new protected computer system*. Appellants have additionally failed to locate any teachings of *assignment of the new protected computer system to one of the storage devices*. Appellants have additionally failed to locate any teachings of *assignment* *responsive to monitoring* as claimed.

11

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

D.   Positively-recited limitations of claims 24-32 and 42 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Independent claim 24 recites a data storage method comprising *monitoring capacities of individual ones of the storage devices* and *associating one of the protected computer systems with one of the storage devices responsive to the monitoring*. The Office relies upon the teachings of col. 15, lines 1-29 of Wahl in support of the rejection and as teaching the monitoring and the associating. Appellants have failed to uncover any teaching or reference to a *protected computer system* in col. 15. In addition, Appellants have failed to uncover any teaching in col. 15 of Wahl of the claimed limitations of *associating one of the protected computer systems* with *one of the storage devices* responsive to *monitoring capacities of individual ones of the storage devices* as positively claimed.

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

Claim 24 further recites *implementing storage operations of the data for the associated one of the protected computer systems using the associated one of the storage devices in accordance with the associating* in combination with the monitoring of capacities and associating responsive to the monitoring limitations discussed above. The Office relies upon the teachings of col. 24, lines 5-24 of Wahl as teaching the implementing. However, Appellants respectfully submit that the teachings relied upon by the Office generically refer to providing continuous network data mirroring and data replication and recovery from failures but Appellants have failed to uncover any teachings of the claimed limitations of implementing storage operations for an *associated one* of the protected computer systems *using the associated one of the storage devices* in combination with the other positively claimed limitations.

12

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

E.   **Positively-recited limitations of claims 33-36 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.**

Independent claim 33 recites providing a *plurality of storage devices* of a data management system configured to *store data for a plurality of <u>client protected computer systems</u>, and wherein the <u>storage devices are external of the protected computer systems</u>.* The Office relies upon the teachings of Fig. 1 of Wahl as teaching the above-recited limitations. Appellants have failed to uncover any teachings in Fig. 1 of the claimed *client protected computer systems* or that the *storage devices are external of the protected computer systems* as positively claimed.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Claim 33 further recites *monitoring <u>capacities of the storage devices using storage control circuitry</u>.* Appellants have failed to uncover any teachings in col. 3, lines 24-37 of Wahl of the claimed limitations of monitoring capacities.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Claim 33 recites *providing a <u>new storage device</u> configured to store data for at least one of the protected computer systems.* Appellants have failed to uncover any teachings in the server fail-over computer system of col. 23 or the generic teachings of col. 24 of Wahl of the claimed limitations regarding providing a new storage device.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Claim 33 recites *coupling <u>processing circuitry</u> of the **new storage device** with the <u>storage control circuitry</u>.* The Office relies upon the teachings of Fig. 5 of Wahl

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

13

in support of the rejection. Appellants have failed to uncover any reference in Fig. 5 to a *new storage device* or *coupling processing circuitry of the new storage device with the storage control circuitry* which also is claimed as *monitoring the capacities of the storage devices* as recited above.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

F.   Positively-recited limitations of claims 43-46 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

The Office has failed to identify teachings of Wahl which disclose the limitations of independent claim 43. In particular, the Office refers to claims 43-46 on page 5 of the Office Action but thereafter recites verbage which appears to correspond to independent claim 16 which is an entirely different claim set than claims 43-46. Appellants respectfully assert that Wahl fails to teach or suggest limitations of the claims and the 102 rejection is improper for at least this reason.

Independent claim 43 recites *a plurality of client protected computer systems individually comprising processing circuitry configured to process data and storage circuitry configured to store the data.* Appellants have failed to uncover any teachings in Wahl of the above-recited limitations and the Office has failed to identify teachings relied upon as allegedly teaching the above-recited limitations.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Claim 43 also recites, in addition to the client protected computer systems, a *data management system* comprising a data storage system configured to store the data of the protected computer systems, *wherein the data storage system comprises a plurality of storage devices individually having a respective capacity, and a quantity of the data of the protected computer systems to be stored by the data management system exceeds capacities of individual ones of the storage devices.* Appellants have failed to uncover any teachings in Wahl including col. 3, lines 24-54 regarding the limitations of the capacities of the storage devices or that

14

a quantity of data of the protected computer systems exceeds capacities of individual ones of the storage devices as claimed.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Independent claim 43 additionally recites that the data management system comprises *storage control circuitry coupled with the data storage system and configured to assign individual ones of the individual storage devices to store data for respective ones of the protected computer systems.* The teachings in col. 3, lines 24-54 of Wahl refer to a writelog being configured so that more memory space is dynamically assigned to the writing device to provide a memory overflow condition. Writelog devices are components of the primary computer system 12 which provides primary application and data storage services to a user and Appellants have failed to uncover any teachings in Wahl including the teachings of the writelog devices of Wahl with respect to protected computer systems or the specifically claimed limitations of the storage control circuitry configured to *assign individual ones of the individual storage devices to store data for respective ones of the protected computer systems* as positively claimed.

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

G.   Positively-recited limitations of claims 2-6 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 2 recites the *storage control circuitry is configured to receive a request to add a new protected computer system and to assign only one of the storage devices to implement data storage operations with respect to the new protected computer system responsive to the request.* At page 3 of the Action, the Office relies upon the teachings of col. 6, lines 34-58 of Wahl in support of the rejection. Appellants have failed to uncover any teachings in the generic disclosure of col. 6 of a request or receipt of a request. In addition, Appellants have failed to uncover

15

any teachings in col. 6 or otherwise of Wahl of the storage control circuitry configured to *assign only one* of the storage devices to implement data storage operations with respect to the *new protected computer system responsive to the request.*

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

H.   Positively-recited limitations of claim 3 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 3 depends from claim 2 and further recites that the *storage control circuitry is configured to monitor a status of the one storage device and to assign the one storage device for the new protected computer system responsive to the monitoring.* The Office identifies the teachings in col. 15, lines 1-29 of Wahl in support of the rejection. Appellants have failed to uncover any teachings in Wahl that the teachings of col. 15 relate to situations wherein *a request to add a new protected computer system is received* as recited in dependent claim 2 from which claim 3 depends. In addition, Appellants have failed to uncover any teachings in col. 15 of *assigning the one storage device for the new protected computer system* let alone the limitations that the *assigning is responsive to monitoring the status of the one storage device.*

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

I.   Positively-recited limitations of claim 6 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 6 depends from claim 3 and recites *monitoring a status of a plurality of the storage devices, and the assigning comprises assigning the one storage device*

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

16

which has a greatest available capacity responsive to the monitoring. Claim 3 additionally recites *assigning the one storage device for the new protected computer system.* The Office relies upon the teachings of col. 3, lines 24-37. Appellants have failed to uncover any teachings in col. 3 with respect to the claimed limitations of *assigning one storage device for a new protected computer system* as claimed. Appellants have additionally failed to uncover any teachings in Wahl of the *assigning the one storage device to the new protected computer system having a greatest available capacity* as claimed.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

J.   Positively-recited limitations of claims 7-8 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 7 recites that *entireties of data for the protected computer systems are stored using respective assigned ones of the storage devices.* The Office relies upon the teachings of col. 5, line 57 to col. 6, line 27 of Wahl in support of the rejection. Appellants have failed to uncover any teachings regarding protected computer systems in the teachings relied upon by the Office. In addition, Appellants have failed to uncover any teachings of the specifically claimed limitations that *entireties of data for the protected computer systems are stored using respective assigned ones of the storage devices.*

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

17

K.   Positively-recited limitations of claim 17 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 17 recites the *plural means for storing individually comprise means for storing an entirety of the data for a respective one of the client protected computer systems.* The Office generally refers to Fig. 1 of Wahl in support of the rejection. Appellants have failed to uncover any reference to client protected computer systems in Fig. 1. In addition, Appellants have failed to uncover any teachings of the specifically claimed limitations that the *plural means for storing individually comprise means for storing an entirety of the data for a respective one of the client protected computer systems.*

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

L.   Positively-recited limitations of claim 22 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 22 recites that the *processor-usable code is configured to cause the processing circuitry to associate responsive to user input* in combination with the limitations of claim 21 reciting the code is configured to cause the processing circuitry to *associate individual ones of the protected computer systems with respective ones of the storage devices.* Appellants have failed to uncover any reference to "user input" in col. 5, line 31 spanning to col. 6, line 58 of Wahl as relied upon by the Office let alone the specifically claimed limitations of the *processing circuitry associating individual ones of the protected computer systems with respective ones of the storage devices responsive to user input* as claimed.

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

18

M.   Positively-recited limitations of claim 23 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 22 recites that the *processor-usable code is configured to cause the processing circuitry to associate <u>responsive to monitoring capacities of the storage devices</u>* in combination with the limitations of claim 21 reciting the code is configured to cause the processing circuitry to *associate individual ones of the protected computer systems with respective ones of the storage devices.* Appellants have failed to uncover any teachings in col. 5, line 31 – col. 6, line 58 of Wahl of monitoring, capacities, association, or association of individual ones of the protected computer systems with respective ones of the storage devices responsive to monitoring capacities of the storage devices as claimed.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

N.   Positively-recited limitations of claim 25 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 25 recites that *a quantity of data of the protected computer systems to be stored exceeds individual capacities of individual ones of the storage devices.* The Office relies upon the teachings of col. 3, lines 24-37 of Wahl. Appellants have failed to uncover any teachings in col. 3 of *protected computer systems*, a quantity of data of the *protected computer systems* or that *the quantity of data of the protected computer systems exceeds individual capacities of individual ones of the storage devices* as claimed.

Appellants respectfully submit that the above-mentioned positively recited limitations of the claims are not disclosed in Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

19

O.   Positively-recited limitations of claim 27 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 27 in combination with claim 24 from which it depends recites *monitoring storage capacities of the storage devices and associating one of the protected computer systems with one of the storage devices responsive to the monitoring*. Appellants have failed to uncover any teachings in col. 15 of Wahl of the claimed *associating one of the protected computer systems with one of the storage devices responsive to the monitoring storage capacities of the storage devices*.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

P.   Positively-recited limitations of claim 28 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 28 in combination with claim 24 from which it depends recites *monitoring processing capacities of the storage devices and associating one of the protected computer systems with one of the storage devices responsive to the monitoring*. Appellants have failed to uncover any teachings in col. 15 of Wahl of the claimed *associating one of the protected computer systems with one of the storage devices responsive to the monitoring processing capacities of the storage devices*.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

Q.   Positively-recited limitations of claim 31 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 31 recites *associating the one protected computer system with the one storage device having a greatest available capacity*. The Office relies upon the

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

20

teachings of col. 3, lines 24-37 of Wahl in support of the rejection. Appellants have failed to uncover any reference therein to a *protected computer system* or a *greatest available capacity of a storage device* in such teachings let alone the specific limitations of *associating the one protected computer system with the one storage device having a greatest available capacity.*

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

R.   Positively-recited limitations of claim 32 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 32 recites *transferring at least a portion of the data of the one protected computer system from the one storage device to an other storage device.* The Office generally relies upon the teachings of Fig. 5 of Wahl in support of the rejection. Appellants have failed to uncover any teachings in Fig. 5 of Wahl or otherwise of the claimed limitations of *transferring at least a portion of the data of the one protected computer system from the one storage device to an other storage device.*

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

S.   Positively-recited limitations of claim 37 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 37 recites that the *protected computer systems are external of the data management system.* The Office has failed to identify any teachings of Wahl in support of the rejection. Appellants have failed to uncover any teachings in Wahl of the protected computer systems or that the *protected computer systems are external of the data management system.*

21

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

T.   Positively-recited limitations of claim 38 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 38 recites that the _protected computer systems are associated with respective different entities and the protected computer systems are independent and not associated with one another._ The Office has failed to identify any teachings of Wahl in support of the rejection. Appellants have failed to uncover any teachings in Wahl of the protected computer systems or that the _protected computer systems are associated with respective different entities and the protected computer systems are independent and not associated with one another_ as claimed.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

U.   Positively-recited limitations of claim 41 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 41 recites that the storage control circuitry and the plurality of storage devices are components of a _data management system_ which is configured to store data of the plurality of protected computer systems, and _wherein the protected computer systems are external of the data management system and the storage devices._ The Office has failed to identify any teachings of Wahl in support of the rejection. Appellants have failed to uncover any teachings in Wahl of the protected computer systems or that the _protected computer systems are external of the data management system and the storage devices_ as claimed.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

22

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

V.   Positively-recited limitations of claim 42 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 42 recites that the *storage devices of the data management system are external of the protected computer systems,* storing data using storage circuitry of the protected computer systems and storing the data using *respective ones* of the storage devices associated with the protected computer systems. The Office has failed to identify any teachings of Wahl in support of the rejection. Appellants have failed to uncover any teachings in Wahl of the protected computer systems or the other above-recited limitations.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

W.   Positively-recited limitations of claim 45 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 45 recites that the *storage control circuitry is configured to associate the individual storage devices with respective ones of the protected computer systems using information regarding capacities of the storage devices*. The Office has failed to identify any teachings of Wahl in support of the rejection. Appellants have failed to uncover any teachings in Wahl of the protected computer systems or the other above-recited limitations including the claimed association using information regarding capacities of the storage devices.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

23

X.   Positively-recited limitations of claim 46 are not disclosed by Wahl and the 102 rejection of the claims is improper for this reason.

Claim 46 recites that *entireties of the data* of the *protected computer systems* are *individually stored* by the *respective assigned ones of the individual storage devices*. The Office has failed to identify any teachings of Wahl in support of the rejection. Appellants have failed to uncover any teachings in Wahl of the protected computer systems or the other above-recited limitations.

Appellants respectfully submit that positively-recited limitations of the claims are not disclosed by Wahl and the 102 rejection is improper for at least this reason.

Appellants respectfully request reversal of the rejections for at least the above-mentioned compelling reasons.

Y.   The title is proper.

Referring to the objection to the title, Appellant respectfully submits that the present title corresponds exactly to preambles of the pending claims and accordingly is highly indicative of the invention to which the claims are directed.

In addition, Appellant respectfully submits that the title is accurate and in compliance with the CFR. In particular, 37 CFR 1.72 states that the title must be short as possible. Appellants respectfully submit that the title complies with the requirements of the CFR. In particular, the title corresponds to preambles of pending claims of the present application. Accordingly, the title is both specific to subject matter of claims of the application and is also brief. Appellants respectfully assert that the present title is sufficient for indexing, classification and searching. Appellants respectfully request approval of the title as submitted as corresponding to subject matter of claims of the application, and accordingly, is specific and descriptive of subject matter of the application while also complying with the brevity requirement of the CFR.

Accordingly, Appellant respectfully requests reconsideration of the objection to the title for the above-mentioned compelling reasons.

24

Z.   Conclusion

In view of the foregoing, reversal of the rejections of the claims is respectfully requested. For any one of the above-stated reasons, the rejections of the respective claims should be reversed. In combination, the above-stated reasons overwhelmingly support such reversal. Accordingly, Appellants respectfully request that the Board reverse the rejections of the claims.

Respectfully submitted,

Date: _8/27/07_   Attorney: _____

James D. Shaurette
Reg. No. 39,833

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

VIII. APPENDIX A – THE CLAIMS INVOLVED IN THIS APPEAL

1   1.   [Original] A data management system comprising:

2   a data storage system configured to store data of a plurality of client

3   protected computer systems, wherein the data storage system comprises a

4   plurality of storage devices individually having a respective capacity, and a

5   quantity of the data of the protected computer systems to be stored exceeds

6   capacities of individual ones of the storage devices; and

7   storage control circuitry coupled with the data storage system and

8   configured to assign individual ones of the individual storage devices to store

9   data for respective ones of the protected computer systems.

1   2.   [Previously Presented] The system of claim 1 wherein the storage

2   control circuitry is configured to receive a request to add a new protected

3   computer system and to assign only one of the storage devices to implement

4   data storage operations with respect to the new protected computer system

5   responsive to the request.

1   3.   [Previously Presented] The system of claim 2 wherein the storage

2   control circuitry is configured to monitor a status of the one storage device and

3   to assign the one storage device for the new protected computer system

4   responsive to the monitoring.

1   4.   [Previously Presented] The system of claim 3 wherein the

2   monitoring comprises monitoring a processing capacity of an archive agent of

3   the one storage device.

1   5.   [Previously Presented] The system of claim 3 wherein the

2   monitoring comprises monitoring a storage capacity of physical storage space of

3   the one storage device.

1   6.   [Previously Presented] The system of claim 3 wherein the

2   monitoring comprises monitoring a status of a plurality of the storage devices,

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

PAGE 31/40 * RCVD AT 8/27/2007 6:03:52 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID:5098383424 * DURATION (mm-ss):11-12

A-2

3　and the assigning comprises assigning the one storage device which has a

4　greatest available capacity responsive to the monitoring.

1　　　　7.　　[Original]　The system of claim 1 wherein entireties of the data for

2　the protected computer systems are stored using respective assigned ones of

3　the storage devices.

1　　　　8.　　[Original]　The system of claim 7 wherein the entireties of the data

2　comprise an entirety of baseline data and associated delta data for the

3　respective protected computer systems.

1　　　　9.　　[Original]　The system of claim 1 wherein the storage control

2　circuitry is configured to assign a plurality of the storage devices to store an

3　entirety of the data for one of the protected computer systems.

1　　　　10.　[Original]　The system of claim 1 wherein the storage control

2　circuitry comprises a tracking database configured to store associations of the

3　storage devices with respective ones of the protected computer systems.

1　　　　11.　[Original]　The system of claim 1 wherein the storage devices

2　comprise disk storage devices.

1　　　　12.　[Original]　The system of claim 1 wherein at least one of the

2　storage devices is configured to store data for a plurality of the protected

3　computer systems.

1　　　　13.　[Original]　The system of claim 1 wherein the storage devices

2　individually comprise an archive agent and a storage space.

1　　　　14.　[Original]　The system of claim 1 wherein the storage control

2　circuitry comprises a master cell manager and at least one slave cell manager,

3　and wherein the master cell manager is configured to assign one of the

A-3

4 protected computer systems to one of the storage devices associated with the
5 at least one slave cell manager.

1   15. [Original] The system of claim 1 wherein one of the storage
2 devices is configured to transfer data for one of the protected computer systems
3 to an other of the storage devices.

1   16. [Previously Presented] A data management system comprising:
2   plural means for storing electronic data, wherein individual ones of the
3 plural means for storing comprise a respective data storage capacity;
4   means for communicating data intermediate the plural means for storing
5 and a plurality of client protected computer systems, wherein a quantity of data
6 of the client protected computer systems exceeds individual data storage
7 capacities of individual ones of the means for storing; and
8   means for assigning individual ones of the means for storing to store data
9 for respective ones of the client protected computer systems.

1   17. [Original] The system of claim 16 wherein the plural means for
2 storing individually comprise means for storing an entirety of the data for a
3 respective one of the client protected computer systems.

1   18. [Original] The system of claim 16 wherein plural ones of the
2 means for storing comprise means for storing an entirety of the data for a
3 respective one of the client protected computer systems.

1   19. [Original] The system of claim 16 further comprising tracking
2 means for storing information regarding associations of individual ones of the
3 plural means for storing with respective ones of the client protected computer
4 systems.

1   20. [Original] The system of claim 16 wherein the plural means for
2 storing individually comprise archive means and physical storage means.

A-4

1   21.   [Previously Presented] An article of manufacture comprising:

2   a processor-usable medium comprising processor-usable code configured

3 to cause processing circuitry of storage control circuitry to:

4   access information regarding a plurality of storage devices;

5   access information regarding a plurality of client protected

6 computer systems;

7   associate individual ones of the protected computer systems with

8 respective ones of the storage devices;

9   receive a request to add a new protected computer system;

10   monitor capacities of the storage devices; and

11   assign the new protected computer system to one of the storage

12 devices responsive to the monitoring.

1   22.   [Original] The article of claim 21 wherein the processor-usable

2 code is configured to cause the processing circuitry to associate responsive to

3 user input.

1   23.   [Original] The article of claim 21 wherein the processor-usable

2 code is configured to cause the processing circuitry to associate responsive to

3 the monitoring.

1   24.   [Original] A data storage method comprising:

2   providing a plurality of storage devices configured to store data for a

3 plurality of client protected computer systems, wherein the storage devices

4 individually comprise processing circuitry and a storage space;

5   monitoring capacities of individual ones of the storage devices;

6   associating one of the protected computer systems with one of the

7 storage devices responsive to the monitoring; and

8   implementing storage operations of the data for the associated one of the

9 protected computer systems using the associated one of the storage devices in

10 accordance with the associating.

A-5

1   25.   [Original] The method of claim 24 wherein a quantity of data of

2   the protected computer systems to be stored exceeds individual capacities of

3   individual ones of the storage devices.

1   26.   [Original] The method of claim 24 further comprising maintaining a

2   record of the association of the one storage device and the one client protected

3   computer system.

1   27.   [Original]   The method of claim 24 wherein the monitoring

2   comprises monitoring storage capacities of the storage devices.

1   28.   [Original]   The method of claim 24 wherein the monitoring

2   comprises monitoring processing capacities of the storage devices.

1   29.   [Original]   The method of claim 24 wherein the monitoring and

2   assigning comprise monitoring and assigning using storage control circuitry.

1   30.   [Original] The method of claim 29 further comprising providing the

2   storage control circuitry comprising a distributed control system.

1   31.   [Original]   The method of claim 24 wherein the associating

2   comprises associating the one protected computer system with the one storage

3   device having a greatest available capacity.

1   32.   [Original] The method of claim 24 further comprising transferring

2   at least a portion of the data of the one protected computer system from the

3   one storage device to an other storage device.

1   33.   [Previously Presented] A data storage method comprising:

2   providing a plurality of storage devices of a data management system

3   configured to store data for a plurality of client protected computer systems,

4   wherein the storage devices individually comprise processing circuitry and

5   wherein the storage devices are external of the protected computer systems;

A-6

6   storing the data using the storage devices;

7   monitoring capacities of the storage devices using storage control

8   circuitry;

9   providing a new storage device configured to store data for at least one

10 of the protected computer systems; and

11   coupling processing circuitry of the new storage device with the storage

12 control circuitry.

1   34.   [Original] The method of claim 33 further comprising monitoring

2   capacity of the new storage device using the storage control circuitry after the

3   coupling.

1   35.   [Original]   The method of claim 33 wherein the monitoring

2   comprises monitoring processing capacities of the storage devices.

1   36.   [Original]   The method of claim 33 wherein the monitoring

2   comprises monitoring storage capacities of the storage devices.

1   37.   [Previously Presented]   The system of claim 1 wherein the

2   protected computer systems are external of the data management system.

1   38.   [Previously Presented]   The system of claim 1 wherein the

2   protected computer systems are associated with respective different entities and

3   the protected computer systems are independent and not associated with one

4   another.

1   39.   [Previously Presented] The system of claim 1 wherein the plurality

2   of storage devices individually comprise processing circuitry and a physical

3   storage space, and the processing circuitry of the storage devices are configured

4   to control storage operations of respective ones of the physical storage spaces.

1   40.   [Previously Presented]   The system of claim 39 wherein the

2   storage devices are associated with one another and the storage control circuitry

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

PAGE 36/40 * RCVD AT 8/27/2007 6:03:52 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID:5098383424 * DURATION (mm-ss):11-12

3 Is configured to implement data storage operations with respect to individual

4 ones of the storage devices.

1   41. [Previously Presented] The article of claim 21 wherein the storage

2 control circuitry and the plurality of storage devices are components of a data

3 management system which is configured to store data of the plurality of

4 protected computer systems, and wherein the protected computer systems are

5 external of the data management system and the storage devices.

1   42. [Previously Presented] The method of claim 24 wherein the

2 providing the plurality of storage devices comprises providing the storage

3 devices of a data management system external of the protected computer

4 systems, and further comprising:

5   storing data using storage circuitry of the protected computer systems;

6 and

7.   storing the data of the protected computer systems using respective ones

8 of the storage devices associated with the protected computer systems.

1   43. [Previously Presented] An electrical system comprising:

2   a plurality of client protected computer systems individually comprising

3 processing circuitry configured to process data and storage circuitry configured

4 to store the data; and

5   a data management system comprising:

6   a data storage system configured to store the data of the protected

7 computer systems, wherein the data storage system comprises a plurality of

8 storage devices individually having a respective capacity, and a quantity of the

9 data of the protected computer systems to be stored by the data management

10 system exceeds capacities of individual ones of the storage devices; and

11   storage control circuitry coupled with the data storage system and

12 configured to assign individual ones of the individual storage devices to store

13 data for respective ones of the protected computer systems.

A-8

1   44.   [Previously Presented]   The system of claim 43 wherein the

2   storage devices individually comprise:

3   a physical storage space configured to store the data of a respective one

4   of the protected computer systems; and

5   processing circuitry configured to control storage of the data of the

6   respective protected computer system associated with the individual storage

7   device in the respective physical storage space of the individual storage device.

1   45.   [Previously Presented]   The system of claim 43 wherein the

2   storage control circuitry is configured to associate the individual storage devices

3   with respective ones of the protected computer systems using information

4   regarding capacities of the storage devices.

1   46.   [Previously Presented] The system of claim 43 wherein entireties

2   of the data of the protected computer systems are individually stored by the

3   respective assigned ones of the individual storage devices.

B-1

IX.   APPENDIX B – EVIDENCE APPENDIX

Appellants submit no evidence with the appellate brief.

C-1

X.   APPENDIX C - RELATED PROCEEDINGS APPENDIX

Appellants are not aware of any related proceedings.

Serial No. 10/723,950
Case 100204110-1
Brief of Appellant

PAGE 40/40 * RCVD AT 8/27/2007 6:03:52 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID:5098383424 * DURATION (mm-ss):11-12